

NEIGHBORHOOD PRESERVATION ACT “NPA”



Neighborhood Preservation Act T.C.A. §13-6-106(a) & 13-6-104

The Neighborhood Preservation Act (NPA), gives the city, nonprofits and individual residents the ability to bring a lawsuit against a property owner who has not maintained their property and the property is considered a public nuisance as defined under this statute.

NEIGHBORHOOD PRESERVATION ACT

How it works

- Declared a Public Nuisance by Code Enforcement.
- Lawsuit Filed By City Under NPA
- Owner Ordered to Abate the Nuisance
- Owner must present Work Plan to Court
- Regular Reports back to the Court

NPA Cases Brought By Individuals

- The NPA gives individual property owners within the community the ability to bring a case against a property owner who fails to maintain their property at “the community standards of the residential property in the area.
- The burden of proof is on the individual bringing suit to prove that the property has not been properly maintained according to community standards.

NPA Cases

- NPA cases can ONLY be brought against vacant or abandoned properties.
- NPA case begins as a referral from a Code Enforcement Field Inspector or from the City's condemnation process where an owner elects to repair his/her property rather than to demolish it.

Commercial Properties

Commercial Properties can also be subject to NPA proceedings, but the same rules apply:

- The Properties must be vacant or abandoned
- NPA cases are filed on properties with substantial noncompliance with city building codes

CHALLENGES

It is challenging to find property owners in the following cases:

- Deceased Owners/Heir Property
- Bankrupt Owners
- Out-of-State Property Owners

CHALLENGES

There can be uncertainty of title in the following cases:

- Foreclosures-Either Actual or Threatened
- Properties Sold at Tax Sale are Still within the Redemption Period (varies according to period of delinquency)

CHALLENGES (Defenses)

- Building is legally inhabited
- Owner has compelling defense that the failure to maintain is due to:
 - Serious Illness
 - Act of Nature
 - Legal Barrier to Compliance (*e.g.* bankruptcy, foreclosure, divorce, or other legal proceeding preventing the disposition of property).

STEPS

1. Once property declared a public nuisance, the owner's information is confirmed and a lawsuit is filed.
2. A copy is sent to the defendant and posted on the door.
3. The lawsuit includes the date of first hearing and an order to appear.
4. The lawsuit is published in the newspaper and post it on the property as well in the hopes of notifying the owner.

STEPS

At the first hearing in court the City attorney meets with the defendant and discuss their plans for the property:

- Do they want to fix it?
- Do they have the money to fix it?
- Do they want to demolish it?
- Do they want to sell it?
- Do they want to give it away?
- Are they at risk of a tax sale or foreclosure?

STEPS

At the first hearing, the Court typically enters an Order Certifying Public Nuisance and barring transfer of the property. This order gives the court the authority to force the defendant to abate the public nuisance.

IN THE SHELBY COUNTY, TENNESSEE ENVIRONMENTAL COURT THIRTIETH JUDICIAL DISTRICT AT MEMPHIS	
City of Memphis, Tennessee)
)
)
Plaintiff,)
)
v.)
)
)
)
Defendant.)
Civil Warrant No. _____	
ORDER CERTIFYING PUBLIC NUISANCE, REQUIRING BOARDING AND SECURING OF THE PROPERTY, BARRING TRANSFER, AND REQUIRING THE SUBMISSION OF A PLAN FOR ABATEMENT OF THE PUBLIC NUISANCE	
THIS CAUSE CAME on for hearing on September 10, 2015 on the motion of Plaintiff, by counsel,	

STEPS

The Court orders a rehabilitation plan or development plan that includes:

- 1) A detailed plan for bringing the property into compliance;
- 2) A timeframe for repairs; and
- 3) the financial means of the defendant to complete the project

STEPS

- The Court may approve the development plan and monitors the progress.
- The defendant is given time to make the repairs.
- Throughout the repair process, inspections are made by NPA Code Inspectors and the court will bring the defendant back into court periodically for a status update on the progress of the repairs.

RESULTS OF NPA LAWSUIT

When a defendant has rehabilitated the property to the satisfaction of the Court and Code Enforcement Officials, the case is DISMISSED.

RESULTS



MORE RESULTS



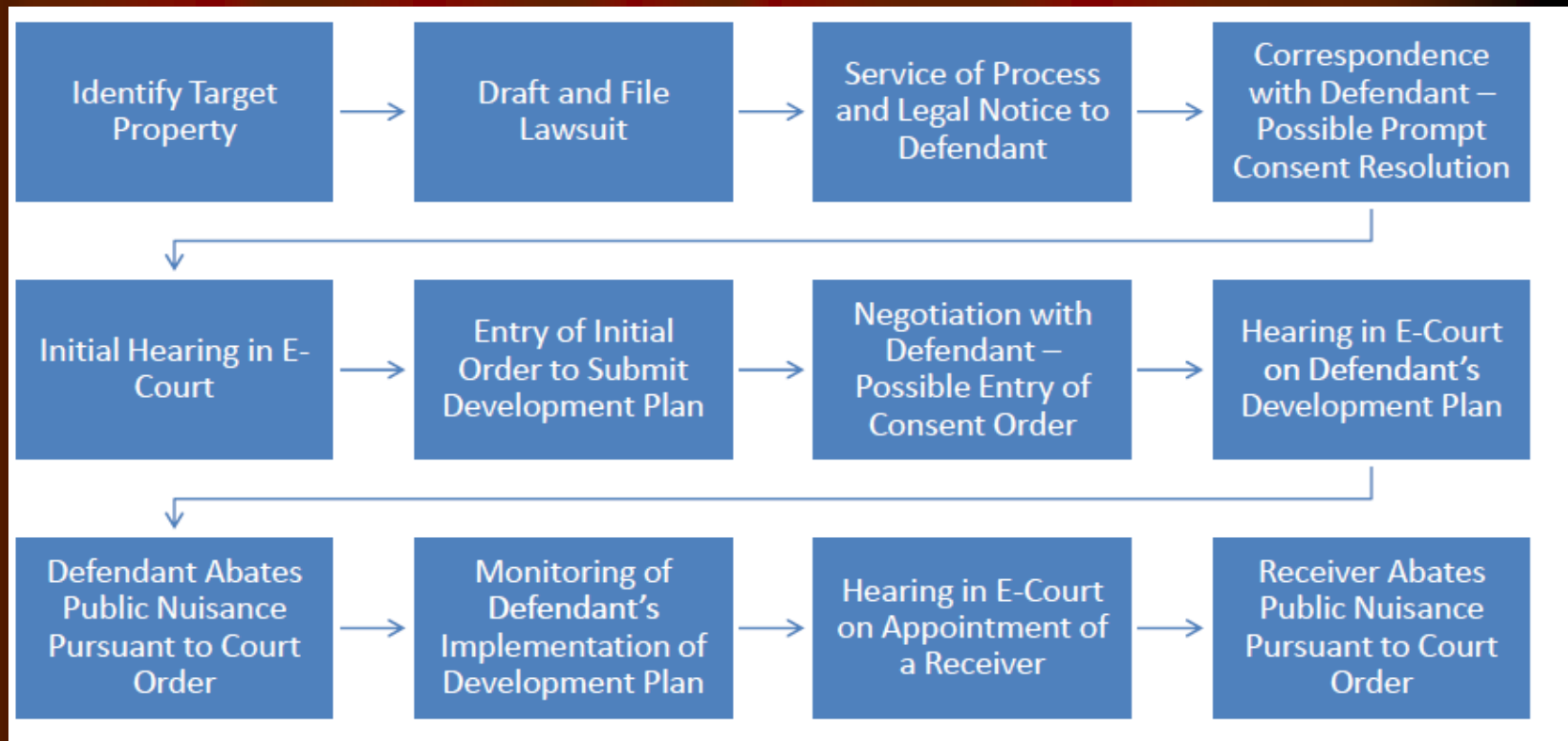
RESULTS OF NPA LAWSUIT

- If a defendant repeatedly fails to adhere to the development plan, the Court has the power to appoint a receiver.
- A Receiver has the power to either complete the rehabilitation or demolish the property.
- The cost of the repairs are added up and placed as a lien on the property that is put on the deed to the property. When the property is sold, the receiver is able to collect this amount from the sale price.

What is a receiver?

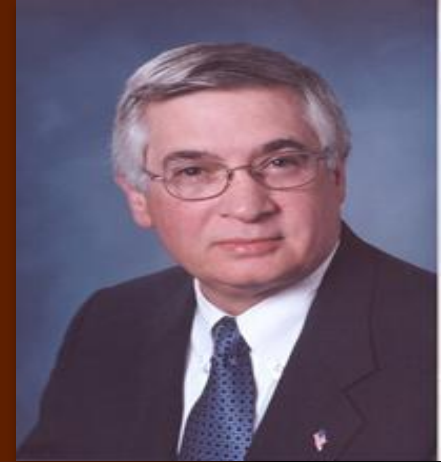
- A receiver is a third party non-profit organization appointed by the Court who initially makes an assessment of whether the property can be rehabilitated.
- The receiver does not get title to the property, but is granted full access to the property in order to make repairs.
- A receiver may also force a sale of the property after 6 months if the lien is not satisfied.
- The cost of the repairs and the receivership cost are placed as a lien on the property. When the property is sold, the receiver is able to collect this amount from the sale price.

Neighborhood Preservation Act Litigation Flow Chart



ENVIRONMENTAL COURT

Judge Larry Potter presiding



- Judge Larry E. Potter is the presiding judge in the Shelby County Environmental Court. He is an expert in his field and has presided over the environmental court for over 30 years.
- He is eager to help citizens in the process of bringing their properties back into compliance with the City Code, but his job is to ensure that these improvements are completed in a timely fashion.

First 100 NPA lawsuits filed



Neighborhood Preservation Clinic

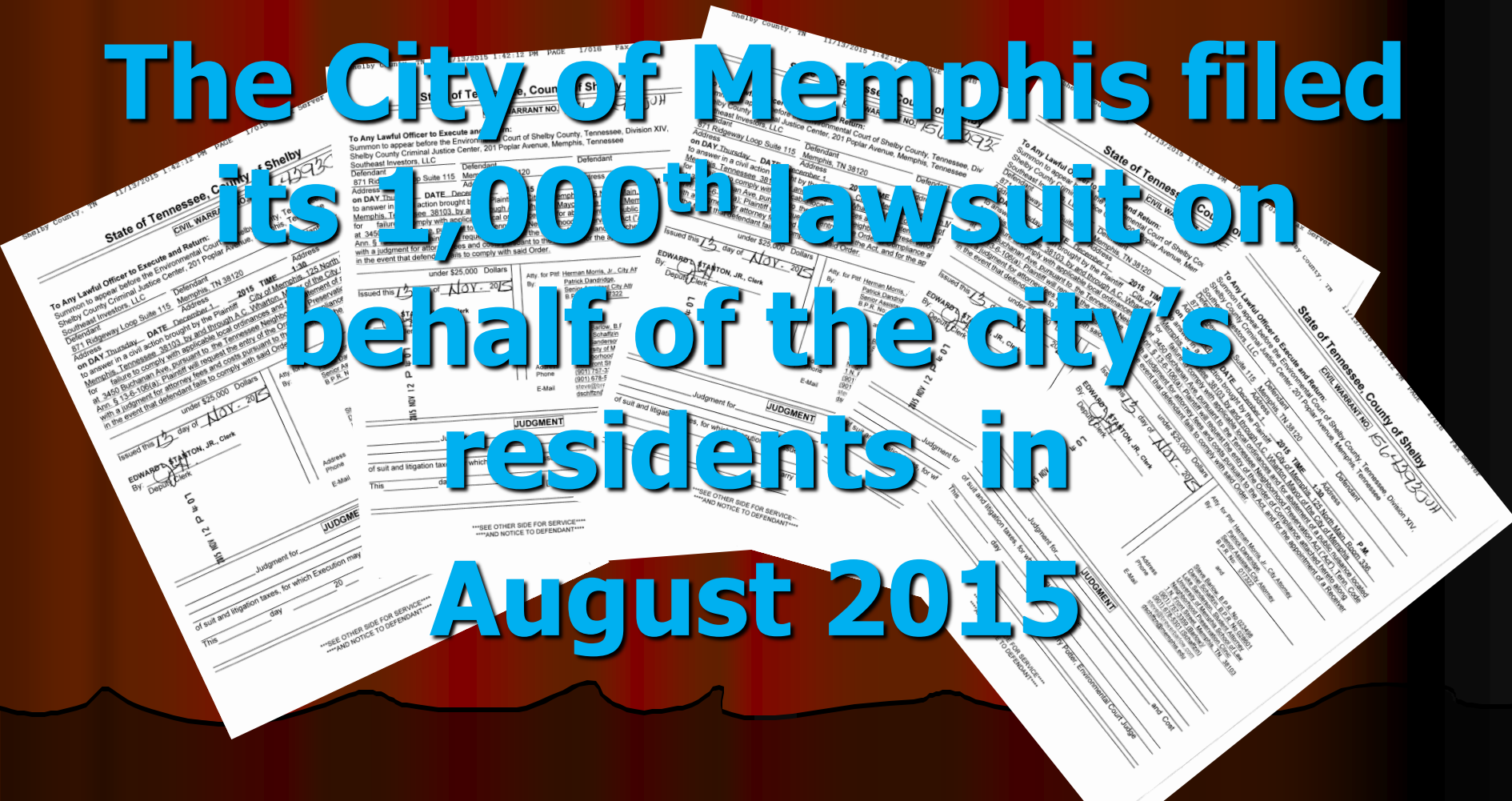
University of Memphis Law Students working under faculty supervision and in conjunction with city attorneys, represent the City of Memphis in NPA lawsuits against blighted property owners.

Neighborhood Preservation Clinic Fall 2015 Class



Neighborhood Preservation Act filing

The City of Memphis filed
its 1,000th lawsuit on
behalf of the city's
residents in
August 2015



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MEMPHIS

A NEW MUSICAL

